

Steven F. Alder (00033)
Emily Lewis ()
Assistants Utah Attorney General
1594 West North Temple St. #300
Salt Lake City, Utah 84118
Telephone 801 538 5348

FILED

SEP 29 2011

SECRETARY, BOARD OF
OIL, GAS & MINING

**BEFORE THE BOARD OF OIL, GAS, AND MINING
DEPARTMENT OF NATURAL RESOURCES
STATE OF UTAH**

IN THE MATTER OF THE REQUEST FOR
AGENCY ACTION OF ENCORE ENERGY
LLC TO APPEAL A DIVISION ORDER
REQUIRING PLUGGING AND
ABANDONING OF THE TOMLINSON FEE
#1 GAS WELL LOCATED IN THE CISCO
FIELD IN THE NWE QUARTER OF
SECTION 12, TOWNSHIP 21 SOUTH
RANGE 23 EAST, SLBM, IN GRAND
COUNTY, UTAH.
and

NOTICE OF AGENCY ACTION FOR AN
ORDER TO REQUIRE ENCORE ENERGY
LLC TO PLUG THE ABOVE DESCRIBED
WELL AND IN THE ALTERNATIVE TO
ORDER THE SURETY FORFEITED AND
ORDER THE DIVISION TO PLUG THE
WELL, RECLAIM THE WELL SITE AND
TO RECOVER COSTS OF SUCH ACTION.

ORDER

TO

**PLUG AND ABANDON WELL
AND
FORFEIT SURETY**

Docket No.: 2011-010

Cause No.: 102-8

The Utah Division of Oil Gas & Mining, ("Division") having Responded to the appeal by Encore Energy LLC ("Encore") of the Division Order dated February 22, 2011 ("Division Order"); and having submitted and filed its Notice of Agency Action in accordance with Utah Code 40-6-10(1) (2011), Utah Administrative code R649-3-1(16)(2011), and the Procedural Rules of the Board (Utah Admin. Code R641-100 to 641-119) seeking an Order from the Board pursuant to its authority under Utah Code §

3. Production from the well has been sporadic and inconsistent as follows: from January of 1997 to November of 1998 there was production that averaged 39 MCF per day; there was no production in 1999 and 2000; production in 2001 and 2002 averaged 19.5 MCF per day; there was no production from January 2003 until March 2006; and the last production was from March 2006 to September 2006 averaging 5.7 MCF per day. There has been no production for over 4 1/2 years and only one period of minimal production in over 10 years.

4. The requirements for approval for an extension for the shut-in status for a well is set forth by R649-3-36 and allow a well to be shut-in for a period of more than 12 months if the operator provides a sundry notice explaining the reason for the shut-in status, an estimate of the time of shut-in, and supporting data showing that the well has integrity and other information showing that the well does not pose a risk to public health, safety and the environment. R649-3-36(1). A well that has been shut in for more than five years of inactivity must be plugged and abandoned in accordance with the requirements of R649-3-24 unless approved by the Division for extended shut-in time for good cause.

5. Notice of non-compliance with the provisions of Rule 649-3-36 was sent to Encore April 16, 2004 and production was begun in March of 2006 but ceased by September 2006.

6. A second notice of non-compliance with the provisions of Rule 649-3-36 was sent to Encore on April 2, 2008, and again on August 11, 2008.

7. Encore submitted a sundry notice dated October 3, 2008 requesting extended shut-in status, but the request was denied for insufficient evidence. Encore submitted a

second sundry notice dated January 26, 2009 stating that Encore would perform an MIT on the well as soon as the road to the well was passable but the MIT test was not done.

8. A Notice of Violation of R649-3-36 was issued March 8, 2010, and Encore took no corrective actions.

9. A second NOV for violations of R649-3-36 was issued November 4, 2010 and again no corrective action was taken.

10. The bonding for the well is provided by two separate certificates of deposit: one was provided by Wayne O. Stout for \$5,000.00 and is currently being held by Vectra Bank of Grand Junction, Colorado, and a second was provided by Mr. Oscar Andersen for \$10,000.00 and is currently being held by Grand Valley Bank of Grand Junction, Colorado.

11. Mr. Stout filed a personal bankruptcy on February 25, 2010 and was discharged August 3, 2010. There was no claim made against the bond.

12. Mr. Andersen is deceased and his estate has acknowledged the State of Utah's interests as beneficiary of the CD and released any claim.

13. The total amount of surety available for the plugging of and reclamation of the well is \$15,000.00 in the form of the two CDs held for the benefit of the State of Utah.

14. The mineral interest that are leased and are being produced and the surface ownership are listed as being owned by Alton E. Tomlinson and heirs as listed on the county tax rolls, care of Tim Tomlinson 1620 8 Road, Mack, CO, 81525.

15. A Division Order was issued February 22, 2011 requiring Encore take action to contract for the plugging and abandonment of the well.

16. The Division has not been provided any evidence to substantiate that any corrective action has been taken to address the well integrity or potential for production, although Encore's manager has alleged in his appeal that well integrity is being tested and that the well is for sale.

17. The Division finds the allegation in the appeal to be insufficient to justify a continuation of the shut-in status and believes the well needs to be plugged in order to prevent injury to the public health and environment.

CONCLUSIONS OF LAW

1. Encore is required to plug and abandon the Tomilson Fee #1 well in accordance with the Division's requirements and the requirements of R649-3-24;

2. If Encore fails to contract for the work within 30 days and/or fails to complete plugging and abandonment of the well as required with reasonable speed, that the surety held to guaranty such work shall be forfeited to the Division, and the Division shall take appropriate action to plug and abandon the well with the funds from the surety;

3. In the event Encore fails to plug the well, the Division may take such other actions as are reasonable and necessary to recover the costs of the plugging and abandonment and reclamation work, including recovery of penalties as appropriate in accordance with Utah Code 40-6-11(3)(b) and (4).

ORDER

Now therefore it is HEREBY ORDERED as follows, provided however, that such order and judgment shall be held in abeyance for 30 days or until September 26, 2011 and provided further that forfeiture of the sureties held for this well shall not occur prior

to October 26, 2011 to provide opportunity to perform the plugging, abandonment and reclamation required.

1. Encore is ordered to immediately commence and complete plugging and reclamation of the well site for the Tomlinson #1 well located in the Cisco Field in the NWNE quarter of Section 12, Township 21 South, Range 23 East, SLBM, in Grand County, Utah

2. In the event Encore shall fail to do so, the sureties provided to ensure the plugging of said well, to wit: \$5,000.00 and is currently being held by Vectra Bank of Grand Junction, Colorado, and a second was provided by Mr. Oscar Andersen for \$10,000.00 and is currently being held by Grand Valley Bank of Grand Junction, Colorado, shall be forfeited to the State of Utah; and

3. The Division shall take such action as necessary and appropriate to plug and abandon the well in the event Encore or sureties fail to do so;

DATED this 29th day of Sept, 2011.

STATE OF UTAH
BOARD OF OIL, GAS AND MINING
James T. Jensen, Chairman

A handwritten signature in blue ink, appearing to read "James T. Jensen", is written over a horizontal line.

CERTIFICATE OF SERVICE

I hereby certify that I caused a true and correct copy of the foregoing ORDER TO PLUG AND ABANDON WELL AND FORFEIT SURETY for Docket No. 2011-010, Cause No. 102-81 to be mailed with postage prepaid, this 4th day of October, 2011, to the following:

Wayne Stout
Encore Energy LLC
1216 18 ½ Road
Fruita, CO 81521

Branch Manager
Vectra Bank
2394 F Road
Grand Junction, CO 81505

Michael S. Johnson
Assistant Attorneys General
Utah Board of Oil, Gas & Mining
1594 West North Temple, Suite 300
Salt Lake City, UT 84116
[Via Email]

Ruby Tomlinson BeeBe and
George D. Beebe
239 N. Elm
Fruita, CO 81521
[Undeliverable]

Steven F. Alder
Assistant Attorneys General
Utah Division of Oil, Gas & Mining
1594 West North Temple, Suite 300
Salt Lake City, UT 84116
[Via Email]

Alton E. Tomlinson, et al
c/o Tim Tomlinson
1620 8 Road
Mack, CO 81525

Encore Energy
c/o Wayne Stout
924 S 1000 E
Orem, UT 84097

*Tim Tomlinson for owners per Grand
County Tax Roll Master Record, i.e.:
Vada J. Tomlinson Accott
Reba Tomlinson Fuller
Andrew R. Hurley
Thomas C. Cuthbert
Nancy B. Carlson
Susan B. Lipscomb
Donald F. Brayton
John W. Lowe
Kelle L. Keeler
[Addresses Unknown]

C. Joseph Croker, PC
Estate of Oscar Anderson
PO Box 2202
Grand Junction, CO 81502-2202

Betty Baldwin
Grand Valley Bank
925 N 7th Street
Grand Junction, CO 81501


